

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #5	CCRB Case #: 202003729	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 3:30 PM	Location of Incident: Centre Street and Hogan Place	Precinct: 05	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 12:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 12:56 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against an individual.	[REDACTED]
B. Officers	Discourtesy: Officers acted discourteously toward an individual.	[REDACTED]

Case Summary

On May 31, 2020, § 87(2)(b) filed this complaint on the CCRB's website on behalf of an unidentified victim.

On May 29, 2020, at approximately 3:30 p.m., § 87(2)(b) and her husband, § 87(2)(b) attended a Black Lives Matter protest that began at Foley Square in Manhattan. At Centre Street and Hogan Place, officers allegedly utilized a forcible takedown against § 87(2)(b) (**Allegation A: Force, § 87(2)(g)**). While on the ground, several officers allegedly pushed the individual's face into a discarded plastic food container (**Allegation B: Discourtesy, § 87(2)(g)**). No arrests or summonses were identified as related to this incident.

The investigation obtained cell phone footage from YouTube, 23 handheld TARU videos, surveillance video from the Manhattan District Attorney's Office and New York State Supreme Court, nine handheld TARU videos from related protest case 202005028, and 19 BWC videos from case 202005028, none of which depicted the allegations raised in this complaint.

The investigation was delayed by the COVID-19 global pandemic and delays in scheduling officers for remote interviews.

Findings and Recommendations

Allegation (A) Force: Officers used physical force against § 87(2)(b)

Allegation (B) Discourtesy: Officers acted discourteously toward § 87(2)(b)

Known Facts and General Descriptions

§ 87(2)(b) testified (BR 01) that she saw two or three officers knock over a black man in his 20s. She could not provide any further physical description of this man. At the time, he was standing at the protest and minding his own business. Officers pushed the man's torso and he landed face-down on the ground. Three officers sat on his legs and torso to hold him on the ground. Officers then pushed his face into a discarded plastic to-go container that was filled with macaroni and cheese. Three additional officers provided crowd control and told protestors to back up. It appeared that the man could not breathe, as he repeatedly moved his head from side to side and audibly gasped for breath. § 87(2)(b) and other protestors chanted, "He can't breathe." After approximately two minutes, the officers got off the man. When § 87(2)(b) last observed him, he was standing upright with the officers, but she did not know if he was arrested or how the incident concluded. § 87(2)(b) described two of the officers as white men who were tall, dressed in plainclothes, and in their late 20s-40s. She described the remaining officers as plain-clothed men in their late 20s-40s.

§ 87(2)(b) similarly recounted (BR 02-04) seeing two officers forcefully pull the man by grabbing his shirt at his shoulder area. A third officer pushed him from behind and moved him toward the sidewalk. Three or four officers then pushed him onto the ground by sweeping his feet and pushing his back. The man landed on his torso, on top of a pile of trash. Three officers pushed the side of the man's face into the plastic food container. Approximately 40 protestors encircled the officers and the man while chanting, "I can't breathe." After approximately 20 seconds, the officers got off the man. § 87(2)(b) did not see how the incident began, and he left before seeing how the incident concluded. § 87(2)(b) similarly described the victim as a black man in his late 20s or early 30s. He added that the man was wearing a white t-shirt and camouflage pants, stood approximately 5'7" tall, and weighed approximately 150 pounds. § 87(2)(b) described the officers as tall men in their 20s-30s, at least two of whom were white. Unlike § 87(2)(b) he testified that the officers were dressed in uniform.

Neither § 87(2)(b) nor § 87(2)(b) provided video footage depicting this incident.

§ 87(2)(b) and § 87(2)(b) were arrested on May 29, 2020, at 3:25 p.m., on Centre Street, and were contacted as potential victims. § 87(2)(b) provided a brief phone statement and filed a new CCRB complaint, § 87(2)(b) prior to requesting that the CCRB close his case due to his open criminal case. § 87(2)(b) recounted (BR 05-07) that he observed an officer punching a male protestor on the ground, identified as § 87(2)(b). § 87(2)(b) went over to assist and hit one of the officers. Five officers then took him to the ground, piled atop him, and arrested him (BR 08). When § 87(2)(b) was arrested, he was not holding anything in his hands, there was no trash in the direct vicinity, and there was no incident that involved food. At the time, § 87(2)(b) is black and was § 87(2)(b) years old at the time of the incident. He was wearing a beige, checkered button-up shirt and camouflage pants.

§ 87(2)(b) also filed a new CCRB complaint, § 87(2)(b) in which he recounted (BR 09) that officers jumped on his back and threw him to the ground, where he landed on his chest. An officer bent § 87(2)(b)'s finger backwards and pressed his forearm against the back of § 87(2)(b)'s neck, which caused § 87(2)(b)'s head to hit the ground. When § 87(2)(b) was arrested (BR 10), there was no trash in the vicinity and the incident did not involve any food. § 87(2)(b) is black and was § 87(2)(b) years old at the time. He was wearing a tan hooded sweatshirt and black jeans.

A third man was arrested after becoming involved in § 87(2)(b)'s arrest, which is depicted in a handheld TARU video and the in the BWC footage from Sergeant Edward Faini of the 13th Precinct (BR 11-12). The man appeared to be in his 20s, appeared to be of Middle Eastern or Hispanic descent, and was wearing a black t-shirt and blue jeans. He initially evaded apprehension and was then arrested on the ground, about half a block away from the incident. It is unclear how he ended up on the ground and, based upon the BWC angle, it was not visible whether he was arrested near a pile of trash or whether officers pushed his face into a container of macaroni and cheese. The investigation was unable to identify this third man through police documentation, video footage, or officer interviews.

Two additional civilians were arrested at the same general time and location: § 87(2)(b) and § 87(2)(b). The arrest of § 87(2)(b) (BR 13), a § 87(2)(b)-old Black male, was captured in Police Officer Vansroy Laird's BWC footage (BR 14). PO Laird was assigned to the 17th Precinct and has since been reassigned to the Office of the Chief of Department. The footage shows that § 87(2)(b) was not taken to the ground and his face was not pushed into a pile of trash. § 87(2)(b) a white male, was arrested after interfering with § 87(2)(b)'s arrest (BR 15).

BWC and Other Video

The investigation reviewed the following videos, which depicted this protest and several arrests that occurred on Centre Street: cell phone footage from YouTube, 23 handheld TARU videos, surveillance video from the Manhattan District Attorney's Office and New York State Supreme Court, nine handheld TARU videos from case 202005028, and 19 BWC videos from case 202005028.

The YouTube video, handheld TARU videos, and 19 BWC videos depicted the arrests of § 87(2)(b) and the unidentified third man, as well as other incidents that occurred during the protest. In sum, the footage shows that officers approached § 87(2)(b) to arrest him (the circumstances that led to his arrest are not depicted). § 87(2)(b) and the third man both swung their arms with closed fists in the direction of the officers while officers were attempting to handcuff § 87(2)(b). Three different groups of officers arrested § 87(2)(b) and the third man.

Surveillance video from the Manhattan District Attorney's Office and New York State Supreme Court depicted protestors gathering and walking, but the cameras were positioned at a far distance, and no specific arrests or incidents were visible. The 23 handheld TARU videos did not depict this protest or anything related to this complaint.

Negative results were received for BWC footage requested for this case, in which the search was conducted for officers from the 5th Precinct, Emergency Service Unit, Strategic Response Group, Disorder Control Unit, City-Wide Traffic Task Force, Narcotics, and Critical Response Command (BR 16). Additional BWC requests were not sent, given that a wide array of BWC footage was requested for case 202005028 and no further information was obtained for this case that would assist with requesting additional footage.

The investigation requested video footage from a fixed TARU camera located at Centre Street and Chambers Street, as well as footage from the Mass Arrest Processing Center (MAPC) at One Police Plaza from the Strategic Technology Division (STD), which would have depicted the location where all arrestees in Manhattan were taken to be processed. The STD and TARU requests were sent on June 24, 2020 and June 9, 2020, respectively. These requests yielded negative results because the requests were not processed in the 30 days prior to the footage expiring (BR 17-18).

None of the video footage depicts officers effecting an arrest wherein the arrestee was atop or near a pile of trash, nor where officers pushed an arrestee's face into macaroni and cheese or anything on the ground. While protestors routinely chanted, "He can't breathe," at various points throughout the protest, none of the video footage depicts a large group of protestors chanting, "I can't breathe," or "He can't breathe," while officers were arresting a protestor on the ground in the manner described by § 87(2)(b) and § 87(2)(b).

Based on the information provided by § 87(2)(b) and § 87(2)(b) the investigation could not identify any video footage depicting the arrest they described. Absent testimony from the victim or additional information about the subject officers, the investigation was unable to request additional BWC footage or identify any additional relevant video footage.

NYPD Documents Reviewed

The summons log from the 5th Precinct on May 29, 2020, detailed that 24 individuals were issued summonses (BR 19). The NYPD's arrest database showed that six arrests were made in the 5th Precinct on May 29, 2020, from 1 p.m. to 6 p.m. (BR 20). In attempting to locate the victim in this case, the investigation ruled out most of these summonses and arrests, due to differences in the location of occurrence, time of occurrence, the arrest or summons narrative, and/or physical description of the civilian. The pool was narrowed down to § 87(2)(b) and § 87(2)(b) § 87(2)(b) and the unidentified third man. The investigation was unable to identify any documentation related to his arrest. As discussed, § 87(2)(b) was ruled out as a potential victim given that video footage showed that the circumstances of his arrest did not fit the description provided by § 87(2)(b) and § 87(2)(b). Though video footage did not appear to depict § 87(2)(b) or the third man being arrested in the manner alleged, there was not enough information to conclusively determine whether § 87(2)(b)s, § 87(2)(b)s, or the third man's arrests encompass these allegations, two of which are already being investigated by the CCRB in separate cases.

The Detail Roster from Patrol Borough Manhattan South (PBMS) did not include all officers assigned to the detail and did not clearly document where and when officers were working (BR 21). Only four pages were provided, documenting that approximately 30 officers from SCTF and the

40th, 41st, 43rd, and 52nd Precincts were assigned to a detail in the vicinity of Foley Square. However, the investigation independently identified officers at the protest who were assigned to SRG, PBMS, and the 6th, 10th, 13th, 14th, 17th, 18th Precincts (see case 202005028). Several roll calls were obtained, but absent detailed officer descriptions and given conflicting information about what the officers were wearing, these were ultimately unhelpful in narrowing down the pool of officers.

Only one set of TRIs from this protest were obtained, which were unrelated to this incident (BR 22). Event #D20052917213 was a 10-13 call for assistance for an injured officer at Worth Street and Centre Street, at 3:48 p.m., which may have referred to the officer who was injured during § 87(2)(b)'s arrest (BR 23). Though the Event listed several units who responded, it did not aid in identifying the officers who were involved in this incident. No UF-49 was prepared regarding this protest (BR 24).

Given the conflicting information from § 87(2)(b) and § 87(2)(b) regarding whether the officers were dressed in uniform or plainclothes, their vague officer descriptions, insufficient police documentation, and an extremely wide pool of potential officers, the investigation was unable to further narrow down the pool of potential officers.

Concurrent Investigations

The investigation is not aware of any concurrent investigation being conducted regarding this incident.

Ranking Officers

Assistant Chief Stephen Hughes, Borough Commander of PBMS, was the highest-ranking officer identified as being present at this protest.

Officers Interviewed

Fourteen officers were interviewed for related protest case 202005028: Deputy Inspector Robert O'Hare, Sergeant Kara Darcey, Police Officer Anthony Smith, and Police Officer Yan Poon (all of the 6th Precinct), Police Officer Neville Dastur (of the 10th Precinct), Police Officers William Blum and Christopher Cannizzaro (both of the 13th Precinct), Police Officers Aiden Fahey, Victor Lara, and James McNamee (all of the 14th Precinct), AC Hughes, Sgt. Faini, PO Laird, and Sgt. Manning. These officers were all involved in or present for the arrests of § 87(2)(b) or the unidentified third man. Each officer denied or did not recall witnessing the allegations in this case, and they did not recount observing or assisting with any arrests aside from those of the aforementioned civilians. The investigation did not have enough information to interview any officers as subjects or witnesses for this case.

Allegation Recitation and Disposition

Allegation (A) Force: Officers used physical force against § 87(2)(b)

Allegation (B) Discourtesy: Officers acted discourteously toward § 87(2)(b)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

○ § 87(2)(b)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 23, 2021, the NYC Comptroller's Office has no record of a Notice of Claim being filed regarding this complaint (BR 26).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 27).

Squad: 5

Investigator: Laura Strauss Inv. Laura Strauss 8/26/2021
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante September 11, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date